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407 WEBB STREET,
APARTMENT #5
BLACKSBURG VA 24060

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AUG 25 2005

OFFICE OF PETITIONS

In re Application of
SPORNY
Application No. 10/709,819
Filed: May 31, 2004
Attorney Docket No. DIG001

DECISION
ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed June 29, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to a Notice to File Corrected Application Papers mailed July 14, 2004, which set a shortened statutory period for reply of two (2) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 15, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a replacement abstract in compliance with 37 CFR 1.72(b) and 37 CFR 1.121; (2) the petition fee of \$750; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice to File Corrected Application Papers of July 14, 2004 is accepted as having been unintentionally delayed.

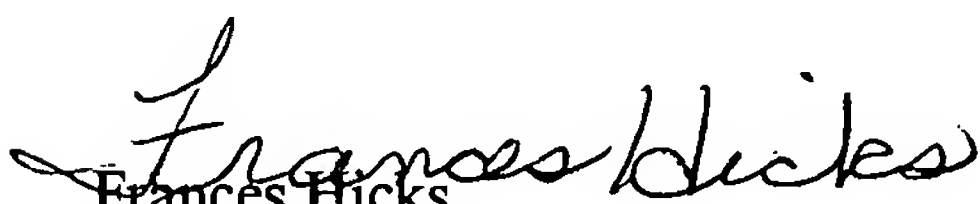
It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for reply until the filing of the grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The Revocation of Power of Attorney and Appointment of New Attorney filed on June 29, 2005 pursuant to 37 CFR 3.71 is not acceptable. While the power of attorney was signed by a person having apparent authority to sign on behalf of the assignee (i.e. President/CEO) as required by 37

CFR 3.73(b)(2), the power of attorney does not include documentary evidence of a chain of title from the original owner to the Assignee (e.g., copy of an executed assignment submitted for recording) or a statement specifying, by reel and frame number, where such evidence is recorded in the Office as required by 37 CFR 3.73(b)(1). See also MPEP 324.II. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

Telephone inquiries concerning this decision should be directed to Denise Pothier at (571) 272-4787.

The application matter is being forwarded to Office of Initial Patent Examination for further processing.


Frances Hicks
Petitions Examiner
Office of Petitions

cc: Nicholas S. Whitelaw
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